

AMENDED IN ASSEMBLY AUGUST 24, 2012

AMENDED IN ASSEMBLY JUNE 27, 2012

AMENDED IN ASSEMBLY JUNE 26, 2012

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE APRIL 26, 2011

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 616

Introduced by Senator DeSaulnier

February 18, 2011

An act to *add Section 805.8 to the Business and Professions Code, and to amend Section 11165 of the Health and Safety Code*, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 616, as amended, DeSaulnier. Controlled substances: reporting.

Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

Existing law requires dispensing pharmacies and clinics to report, on a weekly basis, specified information for each prescription of Schedule II, Schedule III, or Schedule IV controlled substances, to the department, as specified.

This bill would establish the CURES Fund within the ~~state treasury~~ *State Treasury* to receive ~~contributions~~ *funds* to be allocated, ~~upon appropriation by the Legislature,~~ to the Department of Justice for the purposes of ~~the funding CURES program,~~ and would make related findings and declarations.

This bill would, if insufficient funds exist to cover operational costs of CURES or a permanent and ongoing funding source is not identified for CURES, require the Medical Board of California, the Dental Board of California, the State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the State Board of Optometry, and the California Board of Podiatric Medicine to increase the licensure, certification, and renewal fees charged to practitioners under their supervision who are authorized to prescribe or dispense controlled substances by up to \$10 annually, the proceeds of which would be continuously appropriated to the Department of Justice, for support of CURES, as specified.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The Controlled Substance Utilization Review and Evaluation
- 4 System (CURES) is a valuable investigative, preventive, and
- 5 educational tool for law enforcement, regulatory boards,
- 6 educational researchers, and the health care community. Recent
- 7 budget cuts to the Attorney General's Division of Law Enforcement
- 8 have resulted in insufficient funding to support the CURES
- 9 Prescription Drug Monitoring Program (PDMP). The PDMP is
- 10 necessary to ensure health care professionals have the necessary
- 11 data to make informed treatment decisions and to allow law
- 12 enforcement to investigate diversion of prescription drugs. Without
- 13 a dedicated funding source, the CURES PDMP is not sustainable.
- 14 (b) Each year ~~the CURES program~~ responds to more than 60,000
- 15 requests from practitioners and pharmacists regarding all of the
- 16 following:

1 (1) Helping identify and deter drug abuse and diversion of
2 prescription drugs through accurate and rapid tracking of Schedule
3 ~~II, III, and Schedule III, and Schedule IV~~ controlled substances.

4 (2) Helping practitioners make better prescribing decisions.

5 (3) Helping reduce misuse, abuse, and trafficking of those drugs.

6 (c) ~~Schedules II, III, and IV, Schedule II, Schedule III, and~~
7 ~~Schedule IV~~ controlled substances have had deleterious effects on
8 private and public interests, including the misuse, abuse, and
9 trafficking in dangerous prescription medications resulting in injury
10 and death. It is the intent of the Legislature to work with
11 stakeholders to fully fund the operation of the CURES program
12 which seeks to mitigate those deleterious effects, and which has
13 proven to be a cost-effective tool to help reduce the misuse, abuse,
14 and trafficking of those drugs.

15 *SEC. 2. Section 805.8 is added to the Business and Professions*
16 *Code, to read:*

17 805.8. (a) *If the Attorney General determines that the ability*
18 *of regulatory agencies to adequately monitor prescribers and*
19 *dispensers of Schedule II, Schedule III, and Schedule IV controlled*
20 *substances has been compromised because insufficient funds exist*
21 *to cover the operational costs of the Controlled Substance*
22 *Utilization Review and Evaluation System (CURES) established*
23 *by Section 11165 of the Health and Safety Code, or because a*
24 *permanent and ongoing funding source sufficient to cover the*
25 *operational costs of CURES has not been implemented by July 1,*
26 *2014, the Medical Board of California, the Dental Board of*
27 *California, the State Board of Pharmacy, the Veterinary Medical*
28 *Board, the Board of Registered Nursing, the Physician Assistant*
29 *Committee of the Medical Board of California, the Osteopathic*
30 *Medical Board of California, the State Board of Optometry, and*
31 *the California Board of Podiatric Medicine, shall increase the*
32 *licensure, certification, and renewal fees charged to practitioners*
33 *under their supervision who are authorized pursuant to Section*
34 *11150 of the Health and Safety Code to prescribe or dispense*
35 *Schedule II, Schedule III, or Schedule IV controlled substances by*
36 *up to ten dollars (\$10) annually, but in no case shall the fee*
37 *increase exceed the reasonable costs associated with maintaining*
38 *CURES for the purpose of regulating prescribers and dispensers*
39 *of controlled substances licensed or certificated by these boards.*

(b) *The funds collected pursuant to subdivision (a) shall be deposited in the CURES accounts, which are hereby created, within the Contingent Fund of the Medical Board of California, the State Dentistry Fund, the Pharmacy Board Contingency Fund, the Veterinary Medical Board Contingent Fund, the Board of Registered Nursing Fund, the Contingent Fund of the Osteopathic Medical Board of California, the Optometry Fund, and the Board of Podiatric Medicine Fund. Moneys in the CURES accounts of each of those funds are, notwithstanding Section 13340 of the Government Code, continuously appropriated without regard to fiscal year to the Department of Justice solely for maintaining CURES for the purposes of regulating prescribers and dispensers of controlled substances. All moneys received by the Department of Justice pursuant to this section shall be deposited in the CURES Fund described in Section 11165 of the Health and Safety Code.*

~~SEC. 2.~~

SEC. 3. Section 11165 of the Health and Safety Code is amended to read:

11165. (a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds ~~from in the CURES accounts of~~ the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, the Osteopathic Medical Board of California Contingent Fund, *the Veterinary Medical Board Contingency Fund, the Optometry Fund, the Board of Podiatric Medicine Fund,* and the CURES Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

(b) The reporting of Schedule III and Schedule IV controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds ~~from~~ *for* the Department of Justice. The department may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions

to CURES. *The department shall make information about the amount and the source of all private grant funds it receives for support of CURES available to the public.* Funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, the Naturopathic Doctor's Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III and Schedule IV controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency, as described in this subdivision, shall not be disclosed, sold, or transferred to any third party.

(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy or clinic shall provide the following information to the Department of Justice on a weekly basis and in a format specified by the Department of Justice:

(1) Full name, address, and ~~the~~ telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure and ~~license number;~~ ~~number;~~ ~~the federal controlled substance registration number;~~ ~~number;~~ and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

- 1 (3) Pharmacy prescription number, license number, and federal
- 2 controlled substance registration number.
- 3 (4) ~~NDC (National Drug Code)~~ *National Drug Code (NDC)*
- 4 number of the controlled substance dispensed.
- 5 (5) Quantity of the controlled substance dispensed.
- 6 (6) ~~ICD-9 (diagnosis code)~~, *International Statistical*
- 7 *Classification of Diseases, 9th revision (ICD-9) Code*, if available.
- 8 (7) Number of refills ordered.
- 9 (8) Whether the drug was dispensed as a refill of a prescription
- 10 or as a first-time request.
- 11 (9) Date of origin of the prescription.
- 12 (10) Date of dispensing of the prescription.
- 13 (e) The CURES Fund is hereby established within the State
- 14 Treasury. The CURES Fund shall consist of all funds ~~contributed~~
- 15 ~~by organizations made available to the Department of Justice~~ for
- 16 the purposes of funding ~~the CURES program~~. Money in the
- 17 CURES Fund shall, ~~upon appropriation by the Legislature, be~~
- 18 ~~available for allocation~~ *notwithstanding Section 13340 of the*
- 19 *Government Code, be continuously appropriated without regard*
- 20 *to fiscal year* to the Department of Justice for the purposes of
- 21 funding ~~the CURES program~~.